

AMENDED IN SENATE APRIL 30, 2007

**SENATE BILL**

**No. 165**

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**Introduced by Senator ~~Ashburn~~ Senators Ashburn and Cedillo  
(Coauthor: Senator Ridley-Thomas)**

January 31, 2007

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An act to amend Section ~~790~~ 654.3 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 165, as amended, Ashburn. Juvenile crime: ~~deferred entry of judgment.~~ *programs of supervision.*

*Existing law, enacted by initiative statute, excludes from eligibility for specified programs of supervision conducted within the jurisdiction of the juvenile court a minor who is alleged to have committed any specified offense, including, among others, certain violent crimes, the sale or possession of a controlled substance, and participation in a criminal street gang, or who has previously been adjudged a ward of the court or participated in a program of supervision, as specified. A minor who is alleged to have committed a felony offense when the minor was at least 14 years of age is also ineligible for these programs of supervision. The initiative statute provides that any amendment of its provisions requires a  $\frac{2}{3}$  vote of the membership of each house of the Legislature.*

*This bill would specify that these provisions shall not limit the ability of the court to order a minor who is under 14 years of age to participate in a program of supervision, if the court finds that the order would be in the best interests of the minor and in conformity with the interests of public safety. Because the bill would amend an initiative statute, it would require a  $\frac{2}{3}$  vote.*

~~Existing law, enacted by initiative statute, provides that if a minor consents and waives his or her right to a speedy jurisdictional hearing, the court may refer the case to the probation department or summarily grant deferred entry of judgment if the minor admits the charges in the petition and waives time for the pronouncement of the judgment. These provisions apply whenever a case is before the juvenile court for a determination of whether the minor is within the jurisdiction of the juvenile court because of the commission of a felony offense, and the minor meets other eligibility criteria, including that the minor is at least 14 years of age at the time of the hearing. The initiative statute provides that any amendment of its provisions requires a  $\frac{2}{3}$  vote of the membership of each house of the Legislature.~~

~~This bill would delete the requirement that the minor be at least 14 years of age at the time of the hearing. Because the bill would amend an initiative statute, it would require a  $\frac{2}{3}$  vote.~~

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 654.3 of the Welfare and Institutions Code*  
2     *is amended to read:*  
3     654.3. (a) No minor shall be eligible for the program of  
4     supervision set forth in Section 654 or 654.2 in the following cases,  
5     except in an unusual case where the interests of justice would best  
6     be served and the court specifies on the record the reasons for its  
7     decision:  
8     (a)  
9     (1) A petition alleges that the minor has violated an offense  
10    listed in subdivision (b) of Section 707.  
11    (b)  
12    (2) A petition alleges that the minor has sold or possessed for  
13    sale a controlled substance as defined in Chapter 2 (commencing  
14    with Section 11053) of Division 10 of the Health and Safety Code.  
15    (c)  
16    (3) A petition alleges that the minor has violated Section 11350  
17    or 11377 of the Health and Safety Code where the violation takes  
18    place at a public or private elementary, vocational, junior high  
19    school, or high school, or a violation of Section 245.5, 626.9, or  
20    626.10 of the Penal Code.

1     ~~(d)~~

2     (4) A petition alleges that the minor has violated Section 186.22  
3 of the Penal Code.

4     ~~(e)~~

5     (5) The minor has previously participated in a program of  
6 supervision pursuant to Section 654.

7     ~~(f)~~

8     (6) The minor has previously been adjudged a ward of the court  
9 pursuant to Section 602.

10    ~~(g)~~

11    (7) A petition alleges that the minor has violated an offense in  
12 which the restitution owed to the victim exceeds one thousand  
13 dollars (\$1,000). For purposes of this subdivision, the definition  
14 of “victim” in paragraph (1) of subdivision (a) of Section 730.6  
15 and “restitution” in subdivision (h) of Section 730.6 shall apply.

16    ~~(h)~~

17    (8) The minor is alleged to have committed a felony offense  
18 when the minor was at least 14 years of age. Except in unusual  
19 cases where the court determines the interest of justice would best  
20 be served by a proceeding pursuant to Section 654 or 654.2, a  
21 petition alleging that a minor who is 14 years of age or over has  
22 committed a felony offense shall proceed under Article 20.5  
23 (commencing with Section 790) or Article 17 (commencing with  
24 Section 675).

25    ***(b) Notwithstanding any other law, this section shall not limit***  
26 ***the ability of the court to order a minor who is under 14 years of***  
27 ***age to participate in a program of supervision as set forth in***  
28 ***Section 654 or 654.2, if the court finds that the order would be in***  
29 ***the best interests of the minor and in conformity with the interests***  
30 ***of public safety.***

31    ~~SECTION 1. Section 790 of the Welfare and Institutions Code~~  
32 ~~is amended to read:~~

33    ~~790. (a) Notwithstanding Section 654 or 654.2, or any other~~  
34 ~~law, this article shall apply whenever a case is before the juvenile~~  
35 ~~court for a determination of whether a minor is a person described~~  
36 ~~in Section 602 because of the commission of a felony offense, if~~  
37 ~~all of the following circumstances apply:~~

38    ~~(1) The minor has not previously been declared to be a ward of~~  
39 ~~the court for the commission of a felony offense.~~

1     ~~(2) The offense charged is not one of the offenses enumerated~~  
2     ~~in subdivision (b) of Section 707.~~

3     ~~(3) The minor has not previously been committed to the custody~~  
4     ~~of the Department of Corrections and Rehabilitation, Division of~~  
5     ~~Juvenile Facilities.~~

6     ~~(4) The minor's record does not indicate that probation has ever~~  
7     ~~been revoked without being completed.~~

8     ~~(5) The minor is eligible for probation pursuant to Section~~  
9     ~~1203.06 of the Penal Code.~~

10    ~~(b) The prosecuting attorney shall review his or her file to~~  
11    ~~determine whether or not paragraphs (1) to (6), inclusive, of~~  
12    ~~subdivision (a) apply. If the minor is found eligible for deferred~~  
13    ~~entry of judgment, the prosecuting attorney shall file a declaration~~  
14    ~~in writing with the court or state for the record the grounds upon~~  
15    ~~which the determination is based, and shall make this information~~  
16    ~~available to the minor and his or her attorney. Upon a finding that~~  
17    ~~the minor is also suitable for deferred entry of judgment and would~~  
18    ~~benefit from education, treatment, and rehabilitation efforts, the~~  
19    ~~court may grant deferred entry of judgment. Under this procedure,~~  
20    ~~the court may set the hearing for deferred entry of judgment at the~~  
21    ~~initial appearance under Section 657. The court shall make findings~~  
22    ~~on the record that a minor is appropriate for deferred entry of~~  
23    ~~judgment pursuant to this article in any case in which deferred~~  
24    ~~entry of judgment is granted.~~